REMARKS

Claims 1-4, 22, 23, 25-30, 41-43 and 51-53 are presented for further prosecution. Claims 5-21, 24, 31-40, 44-46 and 54-55 are cancelled. Claims 47-50 are withdrawn. Claims 1, 22, 23, 25 and 26 are amended. New claims 56-62 have been added.

Claims 1-4, 10, 12-20, 31-46 and 51-55 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,883,096 (the '096 patent). Claim 1 has been amended to include the limitations of claims 6, 8, 10 and 15. Applicants submit that the compounds encompassed by claim 1 and its dependant claims 2-4 are nowhere taught or even suggested by the '096 patent. The generic structure of the '096 patent includes a very large number of compounds many of which are not specifically exemplified are even remotely suggested by the disclosure. This is particularly the case with respect to the compounds defined by instant claim 1 which requires a carbonyl linker between the piperazine ring and the phenyl ring illustrated in formula I, a $-CH_2-$ linker between the phenyl ring and the R^4 substituent, and the requirement that Q be an unsubstituted N-linked heterocyclyl selected from the Markush group recited in the claim.

The Examiner argues that a person skilled in the art would be motivated to select specific substitutents from the broad generic structure of the '096 patent to obtain the claimed compounds. This is not the case where, as here, the compounds of amended claim 1 are not even remotely suggested by the reference. Furthermore, a person skilled in the art would not look to the '096 patent for any teachings relevant to designing compounds that are effective as H_3 antagonists because the reference discloses compounds which are selective m2 and/or m4 antimuscarinics. There would simply be no motivation to optimize compounds that exhibit selective binding to muscarinic receptors where the skilled person is looking to develop compounds exhibiting selective H_3 receptor binding activity.

In view of the foregoing, applicants believe that amended claim 1 patentably distinguishes over the '096 patent. Claims 2-4 and new claim 59 depend from amended claim 1 and include all of the limitations of this claim. Accordingly, applicants submit that these claims are patentable for the same reasons as discussed above with respect to claim 1. New claims 60-62 recite specific compounds within the genus of amended claim 1. Applicants submit that these compounds are nowhere taught or remotely suggested by the '096 patent and, therefore, patentably distinguish over this references.

The Examiner has indicated that claims 11 and 21-30 would be allowable if they were re-written in independent form including all of the limitations of the base claim and any intervening

claims. Accordingly, claims 11, 21 and 24 have been cancelled, claim 21 has been re-written as independent claim 56 and claim 24 has been re-written as claim 57. Applicants submit that independent claims 56 and 57 and dependant claims 22-23 and 25-30 are now allowable.

In view of the foregoing, applicants submit that the claims are in condition for allowance and favorable action is requested at the earliest possible date.

Applicants herby petition for a one month extension of time to respond to the outstanding Office Action. Please charge the extension fee required for this Response, and any other fees that may be required, to Deposit Account No. 10-0750/PRD2033/JSK.

Should the Examiner have any questions regarding this Response, please contact the undersigned attorney at the telephone number listed.

Respectfully submitted,

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